

OFFICE OF THE COMMISSIONER

New York State Department of Environmental Conservation
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STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of an Order for
the establishment of
Protective Zones to Prevent the Spread
of Oak Wilt disease pursuant to ECL
Sections 9-1303

ORDER

WHEREAS:

- Oak Wilt is a serious tree disease that was first detected in the Great Lakes Region of the United States in 1944. Since that time it has spread, killing thousands of oak trees each year. Oak Wilt is caused by a fungus, *Ceratocystis fagacearum*, which causes blockage of the water conducting vessels (xylem) of host trees slowing the movement of water within the tree whereby the leaves wilt and drop off. Infected red oak and European tree species typically die within a few weeks of infection and white oaks may take several years to die. The disease is spread through underground root systems and by beetles that colonize within infected trees. In addition, the spread of Oak Wilt disease is associated with the movement of firewood and other wood products. Thus, immediate action by the Department is necessary to eliminate this infestation and prevent the spread of this fungus to protect oak trees in the surrounding area and the entire state;
- In September 2016, the Greenwood Cemetery contacted the Department due to concern over a symptomatic oak tree. Department staff sampled the symptomatic tree in October 2016.
- In November 2016, the Department was notified by the Cornell Plant Disease Diagnostic Clinic that samples from a symptomatic oak tree had tested positive for Oak Wilt.

- In November 2016 Department staff confirmed that Oak Wilt disease had infected an oak tree in the borough of Brooklyn, Kings County, New York;
- The Environmental Conservation Law (ECL) Section 9-1303(5) empowers the Department to establish protective zones for the purpose of preventing the spread of forest tree diseases;
- ECL Section 9-1303(7) also authorizes the Department by order to prohibit the movement of materials which may be harboring forest tree diseases;
- Department forestry staff has consulted with Oak Wilt experts from the United States Forest Service, and is developing a response and management plan, which will be discussed with the affected homeowners and community.
- Department staff has delineated the area infected with Oak Wilt disease as described on Schedule A and on the attached map, which shall be known hereinafter as the "Protective Zone"; and
- ECL Section 9-1303(7) provides that in establishing protective zones, the Department shall have the authority to enter onto private lands to make such modification in the composition of forest growth as it may deem necessary for the purpose of preventing the spread of forest tree diseases including spraying, cutting, destroying or otherwise treating trees or other vegetation located in the Protective Zone.

NOW, THEREFORE, pursuant to ECL Section 9-1303 and based upon the above findings:

1. **I HEREBY FIND** that Oak Wilt disease has infected oak trees in the in the borough of Brooklyn, Kings County, New York, and that, in order to protect the forests of New York State, the Department must take immediate action to manage this infestation and prevent its spread;
 - 1A. Oak nursery stock may be moved out of the Protective Zone under a limited permit providing that the shipping nursery is under a compliance agreement with the New York State Department of Agriculture and Markets, Division of Plant Industry. This compliance agreement will require Oak Wilt surveys in nurseries and specify production practices to minimize the risk of spreading

Oak Wilt through nursery stock movement. It will also require nursery growers handling regulated articles to compile, maintain and make available for inspection for a period of two years, records of inventory and sales of regulated articles on a form or forms prescribed by the Commissioner of the New York State Department of Agriculture and Markets.

- 1B.** Living or dead or any portion thereof and firewood (of any species) may be moved outside of the Protective Zone under a Department of Environmental Conservation, Division of Lands and Forests limited permit, providing the materials are from sources apparently free of Oak Wilt disease; transportation of such materials occurs only from August through March, materials shall be shipped with a copy of the permit and proper shipping documents.
2. **I HEREBY ORDER** Department staff to continue to develop and implement, with public involvement, a management plan including: (1) the removal of infected and potentially infected host trees, (2) proper disposal of infected material, and (3) any other action, as resources allow to prevent the spread of Oak Wilt disease.
 3. **I FURTHER ORDER** Department staff to continue to take reasonable steps and exercise due diligence to notify, work cooperatively with and enter into agreements with affected landowners as appropriate to implement the Department's management plan;
 4. **I FURTHER ORDER** that the infected area, as delineated on Schedule A and the attached maps of boundaries, is designated as the Protective Zone for the purposes of carrying out this order;
 5. **I FURTHER ORDER** that, except as authorized by the Department in writing, no person shall move any living, dead, standing, cut or fallen oak trees or any portion thereof, including branches, logs, stumps or roots, green oak lumber and firewood (of any species) outside of the Protective Zone unless it has been chipped to less than one (1) inch in two (2) dimensions;
 6. **I FURTHER ORDER** that a copy of this order be immediately filed in the Offices of the Clerk of Kings County; and

7. **THIS ORDER SHALL BE EFFECTIVE** ten days from the filing thereof with such Office and shall remain effective until Oak Wilt disease has been declared eradicated from within the Protective Zone.

DATED:

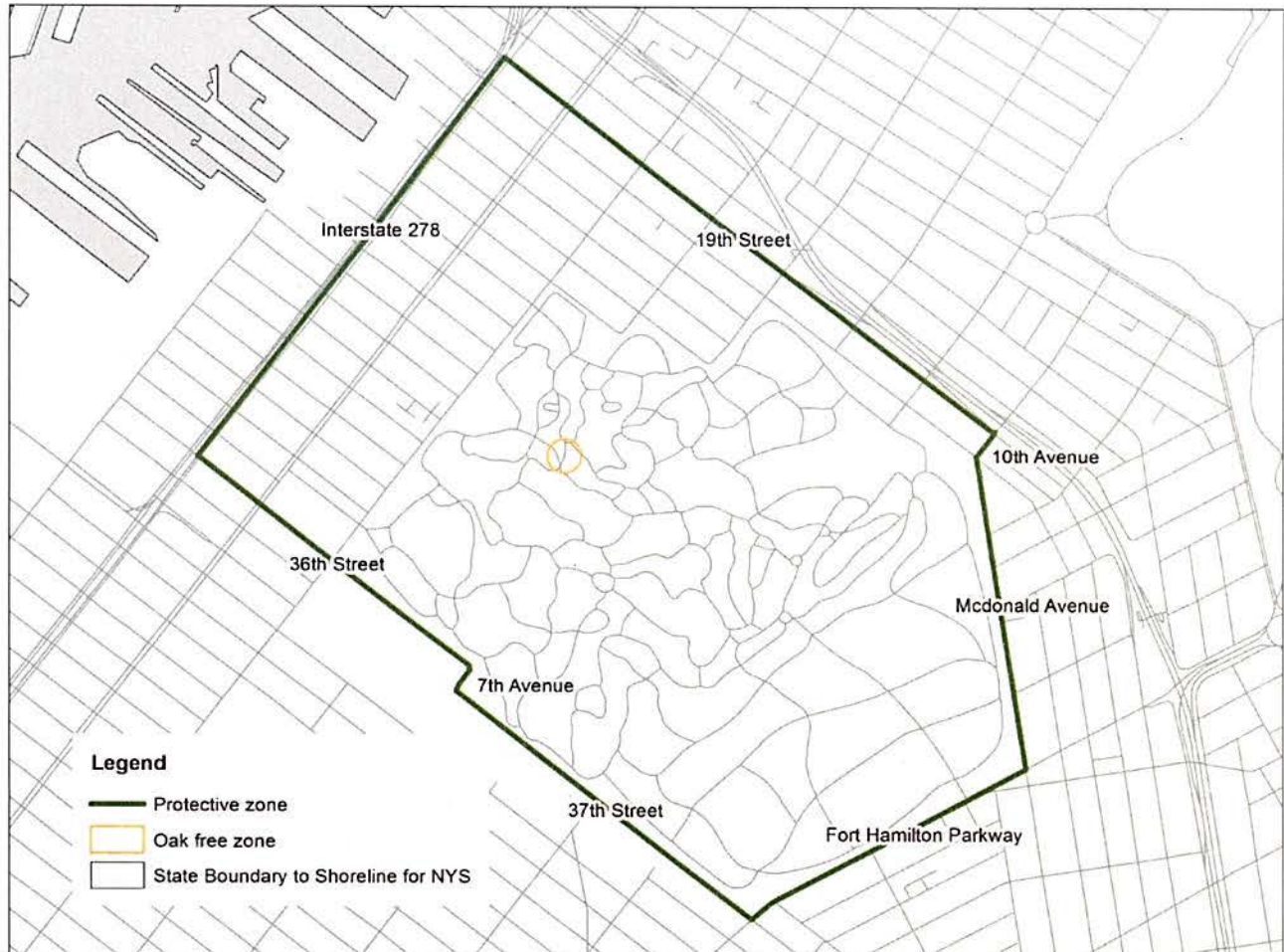
March 23, 2017



Basil Seggos
Commissioner
NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

c: Commissioner Ball
Christopher Logue
Robert Davies

Schedule A



Those parts of the Borough of Brooklyn, Kings County lying within a continuous line along both sides of the streets beginning at the intersection of Interstate 278 and 19th Street; thence southeasterly along 19th Street to its intersection at 10th Street; thence southwesterly along 10th Avenue to its intersection at McDonald Avenue, thence southerly along McDonald Avenue to its intersection at Fort Hamilton Parkway; thence southwesterly along Fort Hamilton Parkway to its intersection at 37th Street; then northwesterly along 37th Street to its intersection at 7th Avenue; thence northerly along 7th Street to its intersection at 36th Street; thence northwesterly along 36th Street to its intersection at Interstate 278; thence northeasterly along Interstate 278 to its intersection at 19th Street.